

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Morten Middelfart)	Group Art Unit: 2176
Application No.: 10/802,509)	Examiner: Nathan Hillery
Filed: March 17, 2004)	Confirmation No.: 3977
For: HYPER RELATED OLAP)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop After Final
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection of claims 2-15 & 17-22 set forth in the Office Action dated December 15, 2009, having a period for response which extends through June 15, 2009, by a Petition for Extension of Time (three months) filed herewith. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal.

Background

The claims are directed to generating a presentation from a graphical data report. In an exemplary embodiment broadly encompassed by the pending claims, a data report contains a collection of graphical elements, which are bound to data items. Data items are specified by metadata, which include one or more of a dimension, a dimension value, and a measure. In response to a user's selection of a graphical element, an association of a dimension and a measure is created based on applicable metadata. Subsequently, stored associations are searched to identify a similar association. A presentation of the selected information is made using presentation properties associated with the identified association.

The Rejections

Claims 2-15 & 17-22 remain pending in the application. In the Office Action, claims 2-15 & 17-22 were rejected under 35 U.S.C. § 102(b). For the sake of brevity only the rejection of independent claims 1, 15 & 17 is addressed in this Request.

Remarks

The issue to be reviewed is whether the Final Office Action properly establishes a *prima facie* case that claims 2-15 & 17-22 are anticipated under 35 U.S.C. § 102(b) by U.S. Patent Publication No. 2002/0070953 to *Barg et al.* ("*Barg*").

The Examiner bears the burden of presenting a *prima facie* case of unpatentability. (*In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).) In order to properly anticipate Applicant's claimed invention under Section 102(b), each and every element of the claim in issue must be found, either expressly described or under the principles of inherency, in a single prior art reference. (*See* M.P.E.P. § 2131 (8th Ed., rev. 7, July 2008.)) Further, the identical invention must be shown in as complete detail as contained in the claim. (*Id.*)

As detailed below, the Office Action is improper because it clearly fails to present a *prima facie* case that *Barg* anticipates all the features recited in claim 22. Moreover, the Office Action is improper because the Examiner is clearly incorrect in asserting that *Barg* discloses these features.

First, the Office Action cites paragraphs 0124, 0125 & 0169 for allegedly disclosing "creating an association," as recited in claim 22. (Office Action, p. 3.) However, the cited paragraphs are entirely silent with regard to "creating an association." Accordingly, the Office Action is improper because it omits a showing necessary to set forth a *prima facie* case for rejecting claim 22.

Barg does not disclose the claimed "creating an association." *Barg* provides a system that "link[s] predetermined sets of dimensions, measures and views to predetermined workflow control entries and report selection entries in a tree structure having labels on the

branches and leaves that are logically related to the associated predetermined sets.” (*Barg*, Abstract, emphasis added; *see also*, ¶¶ 0156, 0164, 0188.) Because *Barg* uses “predetermined sets of measures and dimensions,” it does not, in fact, disclose “selecting a second data item” and, “creating an association between [] first and second data items,” as recited in claim 22. (Emphasis added.) Thus, the Office Action is improper because the assertion that *Barg* discloses the above-noted claim feature is clearly incorrect.

Second, the Office Action points to paragraphs 0124, 0125 & 0169 for their purported disclosure of:

... [a] graphical element that is bound to a first data item having associated metadata, wherein said metadata comprises at least one of a measure representing an amount, a dimension along which measures can be arrayed, and a value for a dimension;
... determining the metadata associated with the first data item to which the graphical element is bound;
if the determined metadata includes a dimension, selecting a second data item that is a measure ... [and]
if the determined metadata includes a measure, selecting a second data item that is a dimension ...

(Office Action, p. 3.) (Emphasis added.) However, the cited paragraphs say nothing with regard to “metadata.” Further, the Office Action does not articulate any reasons as to how *Barg* might be considered to disclose the features associated with the claimed “metadata.” Accordingly, the Office Action is improper because it omits a showing necessary to set forth a *prima facie* case for rejecting claim 22.

Although not stated in the Office Action, based on the Examiner Interview of May 13, 2009, it appears the Examiner believes that “metadata” is implicitly disclosed in *Barg*. Applicant disagrees. To any extent that metadata might be implied the reference, (which Applicant does not concede,) *Barg* actually says nothing, implicitly or otherwise, with regard to “determining the metadata associated with the first data item to which the graphical element is bound” and “if the determined metadata includes a dimension, selecting a second data item that is a measure” and “if the determined metadata includes a measure, selecting a second data item that is a dimension,” as recited in claim 22. Thus, the Office Action is

improper because the assertion that *Barg* discloses the above-noted claim features is clearly incorrect.

Third, the Office Action cites passage *Barg*'s paragraph 0190 for purportedly disclosing "searching a memory containing stored associations to identify a stored association that most closely matches the created association," as recited in claim 22. (Office Action, p. 3.) (Emphasis added.) On the contrary, paragraph 0190 discloses that "each dimension in the textual data view is sortable, selectable and searchable." There is no disclosure anywhere in the cited passage or elsewhere in *Barg* that a memory is searched "to identify stored associations most closely matched to the created association." Accordingly, the Office Action is improper because it omits a showing necessary to set forth a *prima facie* case for rejecting claim 22.

As already set forth above, *Barg* fails to disclose a "created association," as recited in claim 22. Thus, *Barg* also cannot disclose "searching a memory containing stored associations to identify a stored association that most closely matches the created association,". (Emphasis added.) Indeed, as noted above, *Barg* simply displays user-selectable reports corresponding to "predetermined sets of dimensions, measures and views." (*Barg*, Abstract, emphasis added; *see also*, ¶¶ 0156, 0164, 0188.) As such, *Barg* also does not, in fact, anticipate the "searching ... stored associations to identify a stored association that most closely matches the created association," recited in claim 22. (Emphasis added.) Thus, the Office Action is improper because the assertion that *Barg* discloses the above-noted claim feature is clearly incorrect.

Furthermore, because *Barg* does not disclose "identif[ing] a stored association that most closely matches the created association," the reference also does not anticipate "obtaining presentation properties that pertain to the identified stored association" and "displaying a second data report in which the obtained presentation properties are applied to second data items that are specified in the identified stored association," as recited in claim

22. (Emphasis added.) Thus, the Office Action is improper because the assertion that *Barg* discloses the above-noted claim feature is also clearly incorrect.

Conclusion

Since the Examiner relies on portions of *Barg* that do not actually disclose the above-noted subject matter of claim 22, the Office Action clearly fails to set forth a *prima facie* case for rejecting claim 22. Furthermore, because *Barg* does not, in fact, disclose the above-noted features of claim 22, the assertion that *Barg* anticipates these features is clearly incorrect. Applicant, therefore, respectfully requests that the rejection of claim 22 under 35 U.S.C. § 102(b) be reconsidered and withdrawn.

Independent claims 15 & 17, although of different scope than claim 22, recite features similar to claim 22. Thus, Applicant requests withdrawal of the rejection of claims 15 & 17 for the same reasons to those set forth above with regard to claim 22.

The rejection of claims 2-14 & 18-20 is also improper at least due to these claims' corresponding dependence from claims 17 & 22.

In light of the above, Applicant requests that the final Office Action be withdrawn, and that the application be passed to allowance.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: June 15, 2009

By: /Steven Ashburn/
Steven Ashburn
Registration No. 56,636

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

Customer No. 21839